

IN THE DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

MONTGOMERY COUNTY
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850

Plaintiff

v.

Civil Case No. _____

DONNA KERR
9215 Worth Avenue
Silver Spring, Maryland 20901

and

PURE ENERGY REAL ESTATE
c/o Donna Kerr, Resident Agent
2426 Linden Lane
Silver Spring, Maryland 20910

Defendants

**PETITION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY
INJUNCTION, AND PERMANENT INJUNCTION**

Plaintiff, Montgomery County, Maryland, by its Department of Permitting Services (County or DPS), by and through its undersigned attorneys, moves that its Petition for Temporary Restraining Order and Preliminary Injunction against Defendants, Donna Kerr and Pure Energy Real Estate, Inc., be granted and states as follows in support of its position:

1. Pursuant to Section 4-401(8) and 4-402(d)(2) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, the District Court has jurisdiction over a petition filed by a county for enforcement of local health, housing, fire, building, electric, licenses and permits, plumbing, and zoning codes for which equitable relief is provided.

2. Section 1-20 of the Montgomery County Code authorizes the County to enforce any County law by seeking appropriate injunctive, declaratory or other relief from any court with jurisdiction and that such court may temporarily or permanently enjoin any violation of County law, order any person to correct any violation of County law, or order any other appropriate remedy.

3. Pursuant to Maryland Rule 15-504, the District Court may grant a temporary restraining order if immediate, substantial, and irreparable harm will result prior to a full evidentiary hearing. The Court may also waive the filing of a bond by the County pursuant to Maryland Rule 15-503.

4. Plaintiff, through its Department of Permitting Services (DPS), is charged with enforcement of Chapters 8, 17, 22, 30, 34, and 59 of the Montgomery County Code.

5. Defendant Kerr, per the Pure Energy Real Estate Company website, began the Pure Energy Real Estate Team, a company that helps clients buy and sell real estate in Silver Spring, Takoma Park, Kensington, Chevy Chase, and Bethesda.

6. Defendant Kerr owns 9215 Worth Avenue in Silver Spring, Maryland, a single family house on a 14,994 square foot lot in a densely developed residential neighborhood zoned R-60 (small lots). Defendant Kerr's house is at the corner of Worth Avenue and Hamilton Avenue, both of which are narrow residential streets with approximately 20 to 24 feet of paved roadway.

7. On September 12, 2013, Defendant Pure Energy Real Estate posted on its Facebook page, "We are seeking Haunt Actors & Halloween Enthusiasts to volunteer at this year's HAUNTED GARDEN in Silver Spring, MD." See

<https://www.facebook.com/pureenergyteam>. An excerpt of the Facebook page is attached hereto as Exhibit A and incorporated by reference herein.

8. On September 25, 2013, Defendant Kerr advised the DPS Director Diane Jones that Defendants were planning on conducting a Haunted Garden.

9. On September 30, 2013, Defendant Kerr's neighbors began submitting complaints that Pure Energy was setting up props for the haunted garden and provided DPS with the Pure Energy website advertisement of the promotional Haunted Garden and with a copy of a Pure Energy mass mailing flyer promoting Pure Energy and its event.

10. Defendant Kerr knows that her company cannot conduct the promotional Haunted Garden in a residential zone as she received the aforesaid notice of violation in 2012 for a similar activity and a citation in 2011 for an illegal sign in relation to Pure Energy's promotion of the Haunted Garden. The citation was docketed in the District Court as Civil Case No. 1Z33918123.

11. Defendants are creating and promoting a commercial event to promote the Pure Energy Real Estate business.

12. Defendant Pure Energy has solicited volunteers for and is creating a commercial promotional event which Defendant has advertised as a Haunted Garden to occur on five nights in October of 2013 – the 19th, 25th, 26th, 27th, and 31st – on the residential property owned by Defendant Kerr.

13. Defendants have conducted similar events on her property during October of 2010, October of 2011, and October of 2012, which are expanded each year. Defendant Pure Energy states on its Facebook page that approximately 2000 people attended the event in 2011. See <https://www.facebook.com/pureenergyteam>.

14. Defendant Kerr does not have a registered home occupation for the property. Even if she had a properly registered business, in the R-60 zone, registered home occupations are permitted not more than 2 vehicles for anyone visiting. See § 59-A-6.1(c)(9)(A) of the Montgomery County Code. Defendants have been soliciting visitors en masse with Kerr's own acknowledgement of over 2000 visitors on the nights she was open in October 2011.

15. Defendant Kerr has been advised over the previous two years that commercial use is not permitted on her residential property and that Defendant Pure Energy cannot conduct this multi-day event at Kerr's residential property. The events in 2011 and 2012 resulted in enforcement actions.

16. In October of 2012, DPS, through its Director Diane Jones, met with Defendant Kerr and made it clear that (1) Ms. Kerr could not direct her invitees to Park property without an appropriate license; (2) there were concerns for pedestrian safety directing her invitees to park and cross a dark Parkway to get to the event; (3) going forward a haunted garden to which she, and not her business, invited her neighborhood (but not her business listserve) would be fine; and (4) a haunted garden as a business promotion at her home violated the zoning ordinance. Defendant Kerr was directed to take down any connection between the Haunted Garden and Defendant Pure Energy. However, the Pure Energy Real Estate website continued to promote the Haunted Garden and invited its clients to the Haunted Garden. Permitting Services therefore issued a notice of violation to Ms. Kerr.

17. Following this direction, Pure Energy sent out a mailer with a "call to action" calling for the recipients to support keeping Pure Energy's event at Ms. Kerr's home. A copy is attached as Exhibit B.

18. Despite, being clearly informed that the multi-day event is an impermissible commercial promotional event that is not permitted in the R-60 zone and would constitute a violation of the Chapter 59, Zoning, of the Montgomery County Code, Pure Energy and Ms. Kerr are persisting in this commercial promotional event this year.

19. In response to this commercial promotional activity in both 2011 and 2012 Montgomery County had to involve both Montgomery County Police Department and Department of Transportation resources to post no parking signs along Worth and Hamilton Avenues to ensure pedestrian safety and accessibility for fire and emergency vehicles.

20. In 2012 and in Pure Energy's advertisement for the Haunted Garden this year, Defendants are directing invitees to park on Park property and cross Sligo Creek Parkway which is dark at night with a high volume of traffic. See directions posted on the Haunted Garden website attached hereto as Exhibit C and incorporated by reference herein. Such crossing endangers the public. In 2012, the Montgomery County Department of Parks had to place staff in the vicinity to ensure the safety of the visiting public.

21. In addition, the event has caused, and if allowed to continue, will cause traffic congestion on Worth and Hamilton Avenues and in the surrounding neighborhood, parking problems, endanger pedestrians, and other safety issues.

22. Defendant Kerr's property is not zoned for this type of activity and it places a considerable burden on the neighborhood, endangers those using the local roads, interferes with neighbors ability to park in their neighborhood, introduces a high volume of traffic on streets not designed for such volume of traffic, and creates significant impediments for emergency vehicles which in the prior two years has required Montgomery County interventions to address to ensure the safety and security of neighbors.

23. The event is not legal and if allowed to occur will constitute a public and private nuisance.

24. Plaintiff has received numerous complaints regarding the Haunted Garden event that occurred in October of 2011 and the event that occurred in October of 2012. Neighbors and concerned residents have complained *inter alia* that past events: created parking nightmares on narrow roads throughout the neighborhood, attracted hundreds of visitors, brought strangers to the neighborhood, hampered access for emergency vehicles, created a danger to pedestrians who must walk in the street because there are no sidewalks in the neighborhood, jeopardized their quality of life, resulted in visitors urinating on lawns, and involved volunteers who have not been subject to background checks interacting with children. See October 11, 2012 letter from residents to members of the County Council, a copy of which was also sent to the Office of the County Executive and which is attached as Exhibit D and incorporated herein by reference.

25. Plaintiff has received numerous concerns from residents of Silver Spring regarding the planned event for October of 2013. See e-mail from Jack Detzner attached hereto as Exhibit E and incorporated herein by reference. The current installation of the exhibits on Defendant Kerr's property has caused additional commercial traffic in the neighborhood.

26. The planned event constitutes a violation of Chapter 59, Zoning, of the County Code. Pursuant to § 59-A-5.1, land can only be used in accordance with the uses and development standards prescribed in the zone in which the land is located. Pursuant to § 59-C-1.31, no use is allowed in the R-60 residential zone except as indicated in the following table. A copy of this section, including the table, is attached hereto as Exhibit F and incorporated herein by reference. The Haunted Garden is a promotional activity of a commercial business conducted

in a residential neighborhood. As such, it does not fall within any of the listed uses for the R-60 zoning district.

27. Defendants' event is promoted through business advertising fliers mailed out en masse by Defendant Pure Energy, a commercial entity. A copy of the flier is attached hereto as Exhibit G and incorporated herein by reference.

28. The event is put on by Defendant Pure Energy and promoted on Pure Energy's website (<http://www.pureenergyteam.com/events-and-fun.php>) and <http://www.pureenergyteam.com/haunted-garden.php>, its own website (<http://www.thehauntedgarden.com>) and Facebook page (<http://www.facebook.com/TheHauntedGarden>), and is featured on YouTube. As of October 3, 2013, the Facebook page had 316 likes.

29. The Haunted Garden is not an accessory use which would be permitted in the R-60 zone. As defined in § 59-A-2.1, "use, accessory" is "a use which is (1) customarily incidental and subordinate to the principal use of a lot or the main building, and (2) located on the same lot as the principal use or building." The extent of the coverage of the lot, size and amount of the decorations, far exceed what would be customary and incidental as Halloween decorations on a residential lot in Silver Spring. In 2012, the event was described in Defendants' promotional materials as a "spectacular event filled with 7 exhibits, special f/x, theatrical lighting, live actors and bonfires." In 2013, the event is described in Defendants' promotional materials as "8 exhibits total including the all new Witch's lair – complete with an 18 foot tall witch and a whole new assortment of over-sized props."

30. The Haunted Garden is not a benefit performance which may be conducted in any zone. A benefit performance as regulated in § 30-4 of the Code must be conducted by a bona

fide non-profit organization for the exclusive benefit of a volunteer fire department, or a charitable, benevolent, patriotic, fraternal, educational, religious, or civic object. Defendants own promotional materials state that the Haunted Garden is “created by Pure Energy Real Estate, produced by Donna Kerr, and designed and directed by Rania Peet.” Defendant Pure Energy is a for-profit commercial entity.

31. The County does not intend to prevent its residents from decorating their homes and lawns for Halloween, however, Defendants proposed activity is a business promotion which may be suitable in another location, but cannot be safely, comfortably or reasonably accommodated in a densely populated neighborhood of narrow residential streets. The County has repeatedly offered to Defendants alternative locations and Halloween celebration opportunities for their promotional activity.

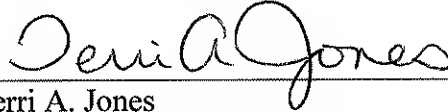
32. The residential setting Defendants have chosen is not designed for the volume of traffic and visitors brought in by Defendant Pure Energy’s mass mailing, website, Facebook and promotion. The Haunted Garden will create deleterious impacts on the neighborhood, endanger residents and cause immediate, substantial, and irreparable harm to the County. Defendant Kerr’s property is simply the wrong location for a promotional event of this type and magnitude. If allowed to occur, this event will bring extensive traffic into a tiny neighborhood, put pedestrians at risk on their own streets, and drain or divert government and community resources already needed to address the safety concerns of trick-or-treaters and to prevent vandalism on Halloween.

WHEREFORE, Plaintiff Montgomery County, Maryland, respectfully requests that the Court issue an Order Granting a Temporary Restraining Order, waive the filing of a bond,

schedule an immediate hearing on Plaintiff's Petition for a Preliminary and Permanent Injunction, and grant such other and further relief as the nature of this cause may require.

Respectfully submitted,

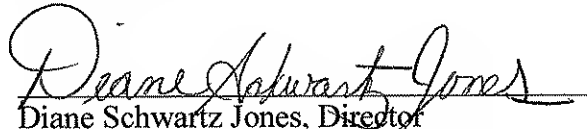
MARC P. HANSEN
COUNTY ATTORNEY



Terri A. Jones
Assistant County Attorney
Attorneys for Plaintiff
Montgomery County, Maryland
101 Monroe Street - Third Floor
Rockville, Maryland 20850
(240) 777-6700

AFFIDAVIT

I solemnly affirm under the penalties of perjury that the contents of the foregoing Petition are true to the best of my knowledge, information and belief.



Diane Schwartz Jones, Director
Department of Permitting Services
225 Rockville Pike, Second Floor
Rockville, Maryland 20850
(240) 777-6363

CERTIFICATE OF SERVICE

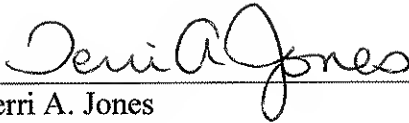
I HEREBY CERTIFY that on this 4th day of October, 2013, a copy of the foregoing was mailed, postage prepaid, first-class, and sent by electronic mail to:

Donna Kerr
9215 Worth Avenue
Silver Spring, Maryland 20901

and

Pure Energy Real Estate, Inc.
c/o Donna Kerr, Resident Agent
2426 Linden Lane
Silver Spring, Maryland 20910

Defendants


Terri A. Jones



Like · Comment · Share

Gloria Maldonado Collins, Nicolene Salt and Schaum-Comegys Kristin like this.



Pure Energy Real Estate shared a link.
September 19

NEW LISTING!!!! You won't want to miss out on this Colonial right in the heart of Silver Spring, MD! Be sure to stop by our OPEN HOUSE this SUNDAY 9/22 2-4PM!!



9007 Eton Rd, SILVER SPRING Property Listing: MLS® # MC8186217
www.pureenergyteam.com

Gorgeous 3BR, 2BA Colonial feat incl fresh interior paint, new oak hardwoods on main, newly refin hardwood flrs on upper & new energy efficient A/C system & furnace. Main feat open liv/din rm and renov kit

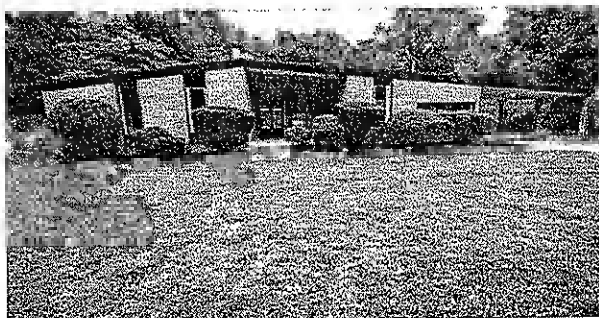
Like · Comment · Share



Pure Energy Real Estate shared a link.
September 17 near Washington

Open Sunday 9/22 2-4PM!

<http://www.pureenergyteam.com/listing/mc8183911-14645-good-hope-rd-silver-spring-md-20905/>



14645 Good Hope Rd, SILVER SPRING Property Listing: MLS® # MC8183911
www.pureenergyteam.com

1 Leighton Pl, SILVER SPRING Property Listing: MLS® # MC8189626
www.pureenergyteam.com

Charming 3BR, 1 1/4BA Cape w/fresh paint thru, new refin wood flrs on main, new carpet on 2nd level, upd light fixts thru and new propane gas boiler heating! Liv feat cozy wood burning FP, the Kit feat new flooring,

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Whet Hutton likes this.



Pure Energy Real Estate shared a link.
September 22

The Pure Energy Team has a lot to look forward to in the next couple of weeks! Be sure to be updated and stay tuned to our COMING SOON listings! Contact us TODAY to see how we can assist you with all of your real estate needs!!!!



Silver Spring Realtor - Real Estate Staging - Pure Energy Team
www.pureenergyteam.com

Pure Energy Team is a high producing team of real estate professionals who provide real estate services whether it is for buy, sell or lease in Silver Spring, Bethesda, Kensington, Takoma Park and Chevy Chase throughout Maryland, MD.

Like · Comment · Share

Célia Agostinho likes this.



Pure Energy Real Estate
September 12

HAUNTERS & MONSTERS WANTED!

Attention Halloween Lovers!

We are seeking Haunt Actors & Halloween Enthusiasts to volunteer at this year's HAUNTED GARDEN in Silver Spring, MD.

The Haunted Garden is an elaborate and over the top Yard Haunt located on a beautiful 1/4 acre lot in Silver Spring, MD filled with over-sized props, theatrical lighting, special f/x and live actors (that means YOU!)

Why volunteer for us you ask? We are not your average yard haunt. This is a 25-minute walk-through experience, set under 100ft tall oak trees, featuring 8 Exhibits total including the all new Witch's Lair - complete with an 18-foot tall Witch, a giant 17-ft

Mid-century gem! 4br, 2.5ba, half acre lot! Unique floor to ceiling widows, abundant natural light, vaulted ceilings & hardwoods thru the main level! Huge living room feat. exposed brick & built-in FP and 2

Like · Comment · Share

Célia Agostinho and Dommi Laws like this.



Pure Energy Real Estate
September 5

Throwback Thursday!! Recognize anyone... — with Donna Kerr.



Like · Comment · Share

Carol Hansen Breining, Lisa Sharretts Burke, Jenée Libby and 13 others like this.

View 6 more comments



Pure Energy Real Estate Oh we were so young!
October 2 at 9:48am via mobile · 1



Colleen Benbrook Love it!!!
October 2 at 1:48pm



Pure Energy Real Estate shared a link.
August 30 near Washington

Check out the amazing transformation on Caddington Ave! The buyers thought so too- it sold in 6 days for \$7k over list price!
<http://www.pureenergyteam.com/blog/a-split-level-home-facelift.html>

spider crawling down the house, 2 enormous glowing mushrooms, hundreds of pumpkins and that is just the 1 new exhibit!

Last year's 18-ft tall fog-breathing PumpkinHead and his horde of 8ft tall scarecrows was a huge hit. Not to mention the 7 other exhibits including a bubbling pond, a creepy cemetery path, The Haunted Woods, campfires, and more! This haunt received almost 2,000 people in 2011, was featured on News Channel 8 and the front page of The Washington Post Metro Section. We would have probably topped all that in 2012, but we were rained out due to Hurricane Sandy. We hope for this season to be the best one ever. We go big or go home at our haunt but WE NEED YOUR HELP!

We are a fun bunch who truly love Halloween and putting this together for the community. We have spots open for actors including witches, robed mysterious walkers, jump scare actors, and a full on Electric Chair lead role.

ACTORS:

No acting experience is necessary, but it does require a positive attitude, team playing and a desire to do your best. Acting in a haunt can be both fun and rewarding. We look for actors that can show up on time, work evenings and weekends on the dates we are open, have transportation, and most importantly have some love of the genre.

Our season dates are the following:

Rehearsal date is Oct 18th with Soft Opening Private function.
Opening night is October 19th!
Runs the rest of the season on October 20th, 25th, 26th, 27th, 30th & 31st.

HOURS 7pm-10pm.

Weather dependent. This is an outdoor haunt!

CREW:

Don't like acting? Prefer building and set up more? We need your help there as well and there is much work to be done! We will be setting up this event starting September 28th-October 19th. Any & all days are needed.

We need help in the following set up areas:

- Pumpkin carving
- Spider webbing
- Props
- Lighting
- Assisting
- Construction
- heavy lifting & and having fun with us!

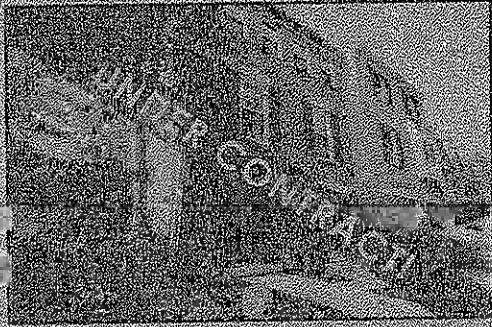
We are having a face to face meeting Saturday 9/21 and Sunday 9/22 from 12-4 pm. Don't be shy! Come down, say hello and see if this is something you might enjoy. We really look forward to meeting you and hope to see you scary lovers there! Please share this with friends and locals!

Any questions, feel free to call or email:

Rania Peet (Designer/Director): 703.400.3676
ranapeet@gmail.com
<http://www.thehauntedgarden.com/>

Pure Energy's FEATURED LISTINGS

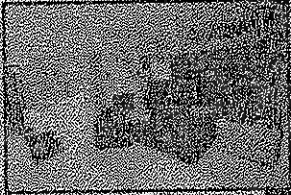
CONTRACT IN 7 DAYS WITH 5 OFFERS, SOLD OVER LIST!



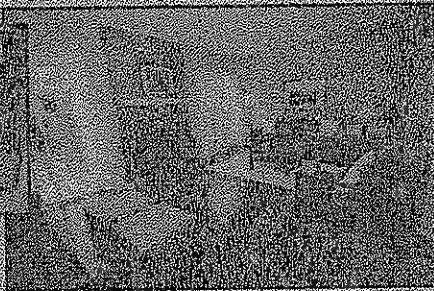
12002 Shagbark Drive \$569,000

Here is why it is worth investing in your home prior to listing it for sale! 12002 Shagbark Drive received extensive renovations throughout, including an all new kitchen with granite counter tops and SS appliances, new hardwood floors in the bedrooms and light fixtures, fresh paint and landscaping. The team completed the new look with complimentary home furnishings. The vacant spaces into a welcoming home. The home is in the neighborhood for itself.

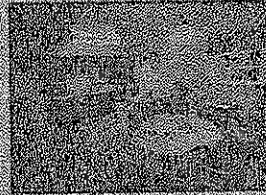
VISIT www.pureenergyteam.com for more info



BEFORE



AFTER



BEFORE



AFTER



301.608.1454

8912 Flower Avenue, Silver Spring

\$469,000

Nestled on a .20 acre lot in the sought after Highland View neighborhood of Silver Spring, this gorgeous 5BR, 1.5BA colonial features fresh designer paint inside and out, newly refinished hardwood floors, brand new carpet, modern light fixtures and recessed lighting, abundant natural light throughout, including large skylights on upper level, a fabulously renovated kitchen with granite counter tops, maple cabinets, SS GE electric range, built-in microwave and dishwasher, SS Jenn-Air French door refrigerator, finished third and lower level, tons of storage, huge brand new deck and freshly landscaped front and back yards!!



A huge THANK YOU to our supporters!

The Haunted Garden 2012 came to a close early this year with Hurricane Sandy forcing us to close after only two nights, but what an amazing two nights it was! Thank you to everyone for visiting and enjoying the Haunted Garden. We appreciate not only your support but your smiles and gardens as well. Thank you to Montgomery County calls for all their hard work making our event safer in the community.

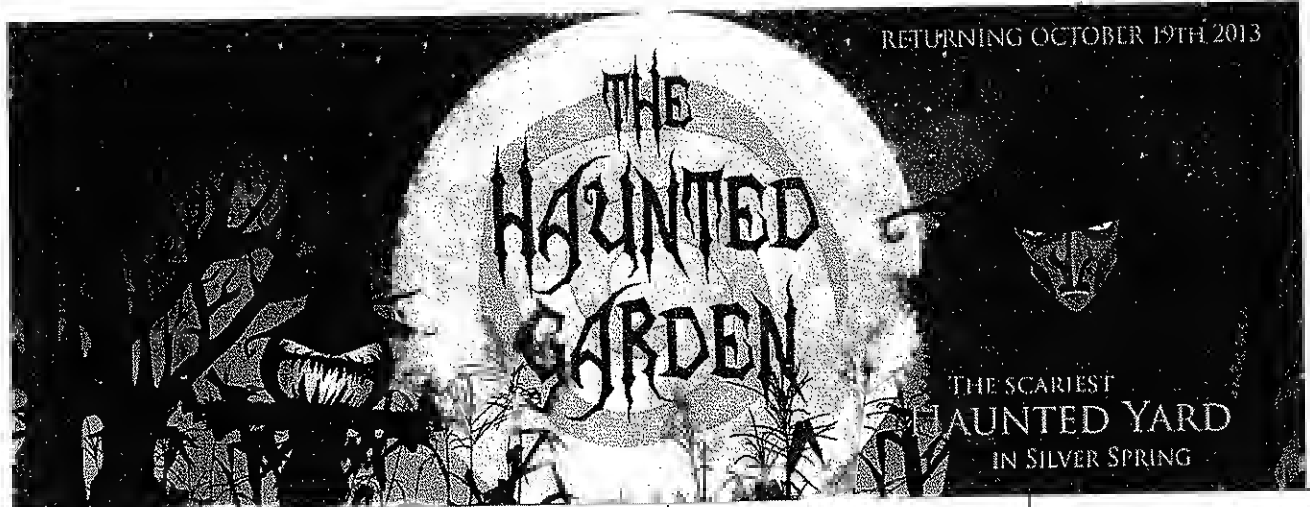
To view all of this year's photos visit our facebook page and let us know which exhibit was your favorite! <http://www.facebook.com/thehauntedgarden>

CALL TO ACTION: The Haunted Garden REALLY needs your help and support to stay alive for next year's Halloween season!! All families have written to the County Council in the hopes of preventing this fantastic neighborhood event from occurring in the future. They claim that the Haunted Garden is a commercial event, even though it is a free community event open to all, and that the location is unsafe for visitors. If you would like to visit the Haunted Garden next year, we need your support! Please take a few minutes to express your support for this family event by either writing a short letter to Montgomery County Council, 100 Maryland Avenue, Rockville, MD 20850, emailing the County Council county.council@montgomerycountymd.gov, please cc John de puren-roy@n.com for posting a message on our website. Be sure to include our logo as well as the physical location, streets, parking and sidewalks provide any risks to you and your family while attending. Please share with them your family's experience and the impact the event has on the neighborhood. Your support means so much to us. THANK YOU!!

www.pureenergyteam.com/blog/support-the-haunted-garden.html



Exhibit B


[Home](#)
[About The Homeowner](#)
[About The Artist](#)
[Gallery](#)
[Hours/Directions](#)
[Get Involved](#)

Hours/Directions



The Haunted Garden is open to the public on the blood spattered days in October. Opening night is Saturday, October 19th 2013. Dates are subject to change due to weather conditions. Please check back for updates.

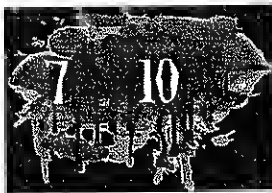


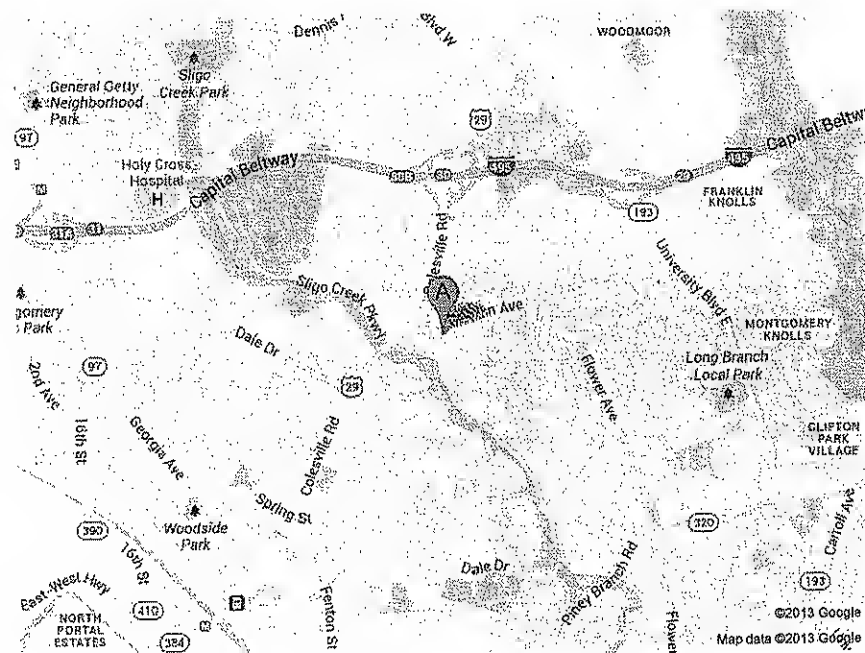
Exhibit C

[Share](#) 0 [More](#) [Next Blog»](#)[Create Blog](#) [Sign In](#)

DIRECTIONS

The Haunted Garden
9215 Worth Ave
Silver Spring MD 20901

This is a neighborhood event. Parking is limited. If you live in the neighborhood, we highly recommend walking. If driving, please be courteous to the neighborhood flow and find parking within the blocks surrounding the garden. Parking signs will be posted. Please do NOT park in No Parking areas. There is some parking available at Sligo Creek Park off Sligo Creek Parkway. For Door To Door Directions click [HERE](#)

[View Larger Map](#)[Recommend this on Google](#)[Home](#)[Subscribe to: Posts \(Atom\)](#)

October 11, 2012

Dear Councilmember,

Please confirm whether it is permissible to hold a business promotion event in a Montgomery County residential neighborhood. This business event for Pure Energy Real Estate is held in the yard of a private residence at the intersection of two narrow residential streets that have no sidewalks. Pure Energy owner Donna Kerr is holding the Pure Energy Haunted Garden marketing event for five nights (Oct. 26, 27, 28, 30, and 31) from 7:00 to 10:00 pm, in the yard of her residence at 9215 Worth Avenue in Silver Spring.

Pure Energy Real Estate has mailed out 2,000 business flyers and advertises the Pure Energy Haunted Garden on its business website (www.pureenergyteam.com) and on its Facebook page (www.facebook.com/TheHauntedGarden). Directions are given from the Beltway to her house.

Donna Kerr told a group of neighbors that about 500 people came each night to this event last year and they are expecting similar numbers this year.

In addition to our concern that this is a business event in a residential neighborhood, we believe that the location of the Pure Energy Haunted Garden, where there is inadequate parking, narrow streets and no sidewalks, presents a risk to the hundreds of people who attend this event in the dark. Thus, we would like to meet with members of the council or their designees to discuss how we can prevent this event from occurring in county neighborhoods this year and in the future.

Signed,

Carol and Allen Leventhal
9219 Manchester Rd.

Carie Jasperse
407 Hamilton

Sarah Toth and Randy Wynn
306 Hamilton Ave.

Mae Jones and Joseph Baremore
311 Hamilton Avenue

Karen Kuehl
9210 Manchester Rd.

Jack and Sarah Hume
409 Hamilton Ave

Laurie Palmer and Herb Kanfman
9115 Sligo Creek Parkway

Mark Pascal and Jean Cavanaugh
9207 Worth Ave.

Barbara Stob and Jack Detzner
308 Hamilton Avenue

Coriolana Simon and Douglas Wolters
9218 Manchester Road

Kathy Giesey
328 Highview Avenue

Exhibit D

Jones, Diane

From: Jack Detzner [jdetzner@npwdc.com]
Sent: Tuesday, October 01, 2013 4:41 PM
To: Rodriguez, Reemberto
Cc: Jones, Diane
Subject: Re: Pure Energy Real Estate Commercial Event in Residential Neighborhood

Dear Mr. Rodriguez,

Thank you again for calling and taking the time to speak with me this afternoon. I am sending this e-mail message to summarize the issues and concerns that I raised when we spoke this afternoon, in the hope that the various county agencies will consider those issues and concerns, and prevent Pure Energy's unsafe business promotion event from occurring in 18 days in our residential neighborhood.

1. It is a business promotion event, pure and simple. You have seen the Pure Energy business website advertisements and the Pure Energy business flyers - they are business promotion advertisements inviting everyone in the company's "MD-DC-VA" business market (as indicated at the top of her webpage) to come to the event.

a. Last year Ms. Kerr told neighbors at a meeting that she sends her business flyers to 2,000 households throughout the area.

b. She also stated that she expected 500 people per night.

c. As in past years, her plans this year are to have 500 people per night come on each of five nights, beginning October 19 and ending October 31.

d. It is not a fine line, and it is not like a wedding in a home or one-night private block party - it is a business sending 2,000 business promotion flyers throughout the area, and advertising on a business website to its "MD-DC-VA" market, with the expectation that 500 strangers will come each night, on five nights over a two-week time period. It is an unsafe business promotion event in a residential neighborhood. It belongs in a safe commercial location.

2. It is unsafe for children pedestrians.

a. The streets are narrow and dark.

b. There are no sidewalks.

c. Many cars will be coming as they have in previous years.

d. With 500 people per night expected for each of five nights, involving primarily strangers to the neighborhood and community who are unfamiliar with the streets and the traffic patterns, and with children walking along the sides of the narrow streets at night alongside that traffic, the chance of a pedestrian child being hit by a car is enormous.

3. It is either legal or illegal. If it's illegal, then the county needs to prevent it from happening this year (in 18 days).

a. It is not a question of how many neighbors do or do not object to the unsafe business event in the neighborhood, although the vote overwhelmingly would go to those who object.

b. This is not a community event or a neighborhood event. With 2,000 business development flyers mailed throughout the area, and the business website advertisements, and 500 strangers per night planned for each of five nights, it is a business development event.

c. The only issue is whether it is legal or illegal. If it is illegal, the county needs to stop it from occurring this year. If it is legal, then we need to work with the County Council to change the current regulations.

4. There is no downside to an immediate county enforcement action and subsequent court case.

a. If the county prevails, then an unsafe business practice in a residential neighborhood will be stopped this year and in future years.

b. If the county does not prevail, then we are simply back to where we are right now (Pure Energy ignoring the county and doing whatever it wants), but with one important difference: we will have a clear and substantiated argument to make to the County Council that the current regulations do not work to prevent such an abusive and unsafe business practice in a residential neighborhood.

5. Pure Energy will not stop unless it is forced to do so by the county in the next 18 days.

a. As Ms. Kerr has shown repeatedly, including one year ago, she has no intention of working with the county agencies that have tried to reach out to her with alternatives.

b. She will continue to ignore the county agencies that have reached out to her, and will not stop unless the county makes her stop.

c. Her current plan is to continue to ignore county officials as she has in previous years, and in 18 days she will operate her unsafe business promotion event for 500 people on each of five nights in a residential neighborhood, unless the county prevents it.

Again, I appreciate your time and patience this afternoon. This neighborhood has watched this unsafe business promotion event happen each Halloween for the past few years. Last year we reached out to county officials for help, and it was our understanding that this year Pure Energy was going to move its business promotion event to a safe, commercial location. It is now apparent, however, that Ms. Kerr has no intention of doing so. Unless the county prevents it from occurring, beginning in 18 days Pure Energy will hold an unsafe business development event on five separate nights, with 500 people coming each night, in a residential neighborhood.

Please call or send an e-mail if you have any questions concerning this e-mail message.

Best regards,

Jack Detzner

From: Jack Detzner <jdetzner@npwdc.com>
Date: Tuesday, October 1, 2013 9:47 AM
To: "Rodriguez, Reemberto" <Reemberto.Rodriguez@montgomerycountymd.gov>
Cc: "Jones, Diane" <Diane.Jones@montgomerycountymd.gov>
Subject: Re: Pure Energy Real Estate Commercial Event in Residential Neighborhood

Mr. Rodriguez,

This e-mail message follows the voicemail message I just left a minute ago. When you get a chance please call me at 301-585-5741.

Thank you,

Jack Detzner

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Chapter 59

§59-C-1.1

ARTICLE 59-C. ZONING DISTRICTS; REGULATIONS.

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.*

Sec. 59-C-1.1. Zones established.

The following are the one-family residential zones and their identifying symbols. Some of these zones were formerly identified by other symbols, as indicated. In each such case the former symbol, wherever it appears on maps or in text, shall represent the same zone as the present symbol.

RE-2—Residential, one-family (formerly R-A)
RE-2C—Residential, one-family (formerly RA-C)
RE-1—Residential, one-family (formerly R-E)
R-200—Residential, one-family (formerly R-R)
R-150—Residential, one-family
R-90—Residential, one-family
R-60—Residential, one-family
RE-2/TDR—Residential, transferable development rights
RE-2C/TDR—Residential, transferable development rights
RE-1/TDR—Residential, transferable development rights
R-200/TDR—Residential, transferable development rights
R-150/TDR—Residential, transferable development rights
R-90/TDR—Residential, transferable development rights
R-60/TDR—Residential, transferable development rights
R-40—Residential, one-family
RMH-200—Residential, one-family
RT-6.0—Residential, townhouse
RT-8.0—Residential, townhouse
RT-10.0—Residential, townhouse
RT-12.5—Residential, townhouse
R-4 plex—Residential, fourplex

Residences are also permitted in certain other zones, including the central district zones, the planned unit development zone and the rural zone.

(Legislative History: Ord. No. 8-71, § 1; Ord. No. 8-81, § 2; Ord. No. 11-4, § 2.)

Editor's note—The above section is cited in Pleasant Investments Ltd. Partnership v. Dept. of Assessments & Taxation, 141 Md. App. 481 (2001) and in Concerned Citizens of Great Falls v. Constellation-Potomac, 122 Md. App. 700, 716 A.2d 353 (1998).

*Editor's note—The above Division is cited in Maryland-National Capital Park and Planning Commission v. Friendship Heights, 57 Md.App. 69, 468 A.2d 1353 (1984).

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Sec. 59-C-1.2. Methods of development.

Four alternative methods are available for development in certain of these zones, each in accordance with appropriate regulations as set forth in the sections indicated, as follows:

- (a) **Standard development.** (section 59-C-1.3)
- (b) **Density control development.** Permits averaging of lot sizes. (section 59-C-1.4)
- (c) **Cluster development.** Permits development on smaller lots with common open space. (section 59-C-1.5)
- (d) **Development including moderately priced dwelling units.** Permits increased density where such units are included in accordance with chapter 25A of the County Code. (section 59-C-1.6)

Sec. 59-C-1.3. Standard development.

The procedure for approval is specified in Chapter 50.

59-C-1.31. Land uses.

No use is allowed except as indicated in the following table:

- **Permitted Uses.** Uses designated by the letter “P” are permitted on any lot in the zones indicated, subject to all applicable regulations.
- **Special Exception Uses.** Uses designated by the letters “SE” may be authorized as special exceptions under Article 59-G.

	RE- 2	RE- 2C	RE- 1	R- 200	R- 150	R- 90	R- 60	R- 40	R-4 plex	RMH 200
(a) Residential										
Accessory apartment, attached. ⁴	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷			P ⁵⁶ / SE ⁵⁷
Accessory apartment, detached. ⁴	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷	P ⁵⁶ / SE ⁵⁷							

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	RE- 2	RE- 2C	RE- 1	R- 200	R- 150	R- 90	R- 60	R- 40	R-4 plex	RMH 200
Bed-and-breakfast lodging with one or 2 guest rooms. ⁶	P	P	P	P	P	P	SE			P
Bed-and-breakfast lodging with 3, 4 or 5 guest rooms. ⁶	SE	SE	SE	SE	SE	SE	SE			SE
Boardinghouses.					SE	SE	SE	SE	SE	
Dwellings, one-family detached.	P	P	P	P	P	P	P	P ¹	P ¹	P
Dwellings, one-family semi-detached.								P ²	P ²	
Dwellings, two-family detached. ⁵								P	P ²	
Dwellings, triplex.									P	
Dwellings, fourplex.									P	
Embassy. ³⁵	P	P	P	P	P	P	P	P	P	P
Farm tenant dwelling.	P ³⁷		P ³⁷	P	P	P	P	P	P	P
Farm tenant mobile home, one only.	P	P	P	P						P
Farm tenant mobile homes for more than one but less than 4. ⁴⁰										
Group home, small.	P	P	P	P	P	P	P	P	P	P
Group home, large. ²³	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Guest houses, as accessory uses.	P	P	P	P	P	P	P	P	P	P
Guest rooms, for not more than 2 roomers in any dwelling unit.	P		P	P	P	P	P	P	P	P
Housing and related facilities for elderly or handicapped persons.	SE	SE	SE	SE	SE	SE	SE	SE		SE
Life care facility.	SE	SE	SE	SE	SE	SE	SE	SE		SE
Mobile homes, double wide.	P ⁷	P ⁷	P ⁷	P ⁷	P ⁷	P ⁷	P ⁷			P

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	RE- 2	RE- 2C	RE- 1	R- 200	R- 150	R- 90	R- 60	R- 40	R-4 plex	RMH 200
Mobile homes, single-wide.										SE
Motels. ⁸										
Registered living unit. ^{4, 10}	P	P	P	P	P	P	P			P
Tourist cabin camps. ⁸										
(b) Transportation, communication and utilities.										
Airstrips, in the common open space.		P								
Amateur radio facility.	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE	P ^{51/} SE
Cable communications system.	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹
Electric power transmission and distribution lines, overhead, carrying 69,000 volts or less.	P		P	P	P	P	P	P	P	P
Electric power transmission and distribution lines, underground.	P	P	P	P	P	P	P	P	P	P
Helistop. ⁴⁶										
Parking of automobiles, off- street, in connection with commercial uses.	P ³⁹	P ³⁹	P ³⁹	P ^{39, 43}			SE	SE		SE
Parking of motor vehicles, other than heavy commercial vehicles, off-street, in connection with any use permitted in the zone. Vehicles and machinery for agricultural use may be parked without restrictions	P ^{11, 13}	P ¹¹	P ¹¹	P ^{12, 13}	P ¹²	P ¹²	P ¹²	P ¹²	P ¹²	P ⁵⁴
Pipelines, aboveground.	SE		SE	SE	SE	SE	SE	SE	SE	SE
Pipelines, underground.	P	P	P	P	P	P	P	P	P	P

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	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
Public utility buildings and structures.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Radio and television broadcasting stations and towers.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Railroad tracks.	P		P	P	P	P	P	P	P	P
Telecommunications facility.	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE	P ¹⁸ /SE
Telephone and telegraph lines. ¹⁴	P	P	P	P	P	P	P	P	P	P
(c) Commercial.										
Antique shops.	SE		SE	SE						SE
Christmas trees, sale of between December 5 and December 25.	P		P	P	P	P	P	P	P	P
Landscape contractor. ¹⁶	SE	SE	SE	SE						
Retail nursery or garden center. ¹⁶	SE	SE	SE	SE						
Transitory use. ³⁸	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE
Wholesale nursery or greenhouse. ¹⁶	SE	SE	SE	SE						
(d) Services.										
Adult foster care home.	P	P	P	P	P	P	P	P	P	P
Ambulances or rescue squads, privately supported, nonprofit.										
Ambulance or rescue squads, publicly supported.	P	P	P	P	P	P	P	P	P	P
Animal boarding places. ¹⁵	SE	SE	SE	SE						
Catering facility, outdoors				SE						

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	RE- 2	RE- 2C	RE- 1	R- 200	R- 150	R- 90	R- 60	R- 40	R-4 plex	RMH 200
Cemetery.	SE									
Chancery. ³⁶	SE	SE	SE	SE	SE	SE	SE			SE
Charitable or philanthropic institution.	SE	SE	SE	SE	SE	SE	SE			SE
Child day care facility:										
—Family day care home.	P	P	P	P	P	P	P	P	P	P
—Group day care home. ²⁰	P	P	P	P	P	SE ¹⁹	SE ¹⁹	SE	SE	SE
—Child day care center. ²⁰	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Churches, memorial gardens, convents, monasteries and other places of worship.	P	P	P	P	P	P	P	P	P	P
Clinic, medical or dental, for no more than 4 medical practitioners.				SE	SE	SE	SE			SE
Clinic, medical or dental for 5 or more medical practitioners. ²⁴				SE	SE	SE	SE			SE
Community redevelopment areas. ³³	SE		SE	SE	SE	SE	SE	SE	SE	SE
Day care facility for not more than 4 senior adults and persons with disabilities. ²²	P	P	P	P	P	P	P	P	P	P
Day care facility for more than 4 senior adults and persons with disabilities. ²²	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Domiciliary care home for more than 16 residents. ¹⁷	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Educational institutions, private.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Family burial sites. ³³	SE	SE	SE	SE						
Fire stations, publicly supported.	P	P	P	P	P	P	P	P	P	P

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	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
Funeral parlor or undertaking establishments.	SE		SE	SE	SE	SE				SE
Group picnic, catering and recreation facility.		SE								
Home health practitioner's office.	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵	P ²⁶ / SE ²⁵
Home occupation, major. ²⁵	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Home occupation, registered. ²⁶	P	P	P	P	P	P	P	P	P	P
Home occupation, no impact. ²⁷	P	P	P	P	P	P	P	P	P	P
Hospice care facility.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Hospitals.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Hospitals, veterinary.	SE	SE	SE	SE	SE	SE	SE			
Life sciences center.				P ²⁸						
Nursing home. ¹⁷	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Offices, medical practitioner, for use by other than a resident of the dwelling.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Offices, professional, nonresidential. ⁴⁴				SE		SE	SE			
Opportunity housing projects.	P		P	P	P	P	P			P
Publicly owned or publicly operated uses.	P	P	P	P	P	P	P	P	P	P
Respite care home.	P	P	P	P	P	P	P	P	P	P
(e) Cultural, entertainment and recreational.										
Camp grounds.		SE								
Golf courses and country clubs.	SE	SE	SE	SE	SE	SE	SE	SE		SE

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	RE- 2	RE- 2C	RE- 1	R- 200	R- 150	R- 90	R- 60	R- 40	R-4 plex	RMH 200
Golf driving range. ⁴¹										
Libraries and museums.	P		P	P	P	P	P	P	P	P
Parks and playgrounds, publicly owned.	P	P	P	P	P	P	P	P	P	P
Private clubs and service organizations.	SE		SE	SE	SE	SE	SE	SE		SE
Swimming pools, community.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Swimming pools, private. ³²	P	P	P	P	P	P	P	P	P	P
Theatre, legitimate. ⁴⁵										
(f) Resource production extraction and Agriculture.										
Agricultural uses.	P	P	P	P	P	P	P	P	P	P
Country market.	SE	SE	SE	SE						SE
Equestrian facility. ⁴²	SE	SE	SE	SE	SE					SE
Farm market. ²⁹	P	P	P	P						
Stone or rock quarries ⁴⁷				P ⁴⁸ / SE ⁴⁹						
(g) Miscellaneous.										
Accessory buildings or structures for housing animals or fowl.	P	P	P	P	P	P	P			
Accessory buildings, structures, and uses. ⁵²	P	P	P	P	P	P	P	P	P	P
Agricultural vending. ⁵³	P	P	P	P	P	P	P			
Commercial kitchen. ⁵⁵						P	P			
Kennels, noncommercial. ³¹	P	P	P	P	P ³⁰	P ³⁰	P ³⁰	P ³⁰	P ³⁰	P ³⁰
Security pavilion.	P ⁵⁰		P ⁵⁰	P ⁵⁰						

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	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
Signs, in accordance with article 59-F.	P	P	P	P	P	P	P	P	P	P

- 1 Subject to the requirements of the R-60 zone.
- 2 Subject to the requirements of the R-40 zone.
- 3 Both of an adjoining pair must be erected at the same time.
- 4 Not permitted in a mobile home.
- 5 Two-family detached dwellings approved by the board of appeals as of June 17, 1986, are not subject to the nonconforming use limitations of division 59-G-4, and may continue under the terms of the special exception grant.
- 6 Not permitted in a mobile home. The owner must maintain a record of transient visitors and register the lodging with the department. Minimum lot size for a lodging with more than 3 guest rooms is 2 acres.
- 7 Provided that such a dwelling has minimum dimensions of 24 feet by 40 feet, a gable roof and is permanently affixed to a foundation supporting the load-bearing framework of the mobile home and a foundation wall enclosing its entire perimeter, in compliance with the provisions of chapter 8 of this Code. Such a mobile home shall have its wheels, axles, transportation light and removable towing apparatus removed.
- 8 Any tourist cabin camp or motel lawfully existing on October 24, 1972, shall not be regarded as a nonconforming use and may continue to exist in accordance with the provisions of this chapter in effect prior to October 24, 1972.
- 9 Except as provided in sections 59-A-6.9 and 59-G-2.10.1.
- 10 In accordance with Executive Regulations and subject to the requirements enumerated in section 59-A-6.10.
- 11 Not more than 3 light commercial vehicles and not more than one unoccupied recreation vehicle may be parked on any lot at any time. One additional recreation vehicle may be used on a lot for dwelling purposes for not more than 3 days in any month. A tow truck is not permitted to park with a vehicle attached. The provision for parking motor vehicles off-street in connection with any use permitted in the RE-1 zone does not apply to a lot reclassified from the R-200 to the RE-1 zone that does not meet the minimum lot size requirement of the RE-1 zone. A lot reclassified from the R-200 to the RE-1 zone that does not meet the minimum lot size requirement of the RE-1 zone is subject to the motor vehicle off-street parking provision in effect for the lot before the lot was reclassified from the R-200 to the RE-1 zone. To provide for a reasonable period of amortization, the use of a lot reclassified from the R-200 to the RE-1 zone that does not conform to this provision may continue to operate for one year following May 22, 2006. After that date, the use of the lot must satisfy this provision or cease to operate.
- 12 One light commercial vehicle may be parked on any lot or parcel. A tow truck is not permitted to park with a vehicle attached. One recreation vehicle may be parked on a lot or parcel, however it must not be used for dwelling purposes for more than 3 days in any month. Parking for any vehicle or trailer in a front yard must be on a surfaced area; however, temporary parking for visitors, and loading, unloading, or cleaning vehicles or trailers is permitted on any area. Temporary parking is infrequent; not more than 12 days per year.
- 13 Notwithstanding any other provisions of this ordinance, paid off-street parking of automobiles may be permitted in connection with a sporting or cultural event of general public interest. This parking shall be of a temporary nature and is limited to one event a year, not to exceed 10 days. A written permit authorizing

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such parking must be obtained from the director at least 10 days prior to the event. The director is authorized to impose a reasonable fee and other requirements on the permittee to assure that the parking is safe and free from hazard, and the community interest and welfare are protected.

Underground only.

See "Animal boarding places," section 59-G-2.02.

Any horticultural nursery and related use established by special exception in the R-150, R-90, R-60, R-40, R-4plex or RMH-200 zones before May 6, 2002 is a conforming use, and may be modified, repaired or reconstructed, or enlarged a maximum of 5% of the total floor area in accordance with the special exception standards in effect before May 6, 2002.

Subject to the special exception standards for a Nursing Home; and Domiciliary Care Home, section 59-G-2.37.

Subject to Section 59-A-6.12 and 59-A-6.14.

Group day care homes lawfully operating as of February 5, 1996 are not nonconforming and may continue under the provision of this chapter in effect as of February 5, 1996.

Not to be located in a townhouse unit or an attached unit.

For business connected with the management, service and maintenance of the development.

Definition and special exception standards located under "Day Care Facility for Senior Adults and Persons with Disabilities" [section 59-G-2.13].

Subject to the special exception standards for group home, section 59-G-2.26.

Provided that a petition was approved prior to February 20, 1989, as provided in section 59-G-2.14.

In accordance with Section 59-G-2.29, title "Home Occupation, Major." A professional office for a resident of a dwelling for which a use-and-occupancy permit was issued prior to February 5, 1990, may be continued as a nonconforming use, as provided in Division 59-G-4. Alternatively, an existing resident professional may register a home occupation or home health practitioner's office, in accordance with Sections 59-A-3.4 and 59-A-6.1, or apply for a special exception, in accordance with Section 59-G-2.29.

In accordance with Sections 59-A-3.4 and 59-A-6.1.

There must be no more than 5 visits per week, no nonresident employees and no discernible adverse impact on the neighborhood.

In accordance with the special regulations of section 59-C-1.37.1.

The sale and display area must be located at least 25 feet from the paved edge of the roadway and there must be at least 3 off-street parking spaces. Firewood sold at a farm market must be cut and split on the farm or location where the wood is harvested.

Provided that no accessory buildings, enclosures or runs may be constructed or used for these dogs.

Operator must obtain a kennel license from the county.

When located on the same lot as a residential use, it is subject to the regulations for an accessory use.

If in existence as of July 22, 1991.

If recommended for TS-M zone on an approved and adopted master or sector plan.

Must comply with all County building and related codes. Application for a building permit must be accompanied by a letter or other communication indicating that the State Department has been notified of the proposed location.

When located on the same site as an embassy.

A farm tenant dwelling in existence prior to June 1, 1958, may be rented to a non-farm family without obtaining a special exception as an accessory dwelling, provided that the dwelling meets all applicable health and safety regulations.

In accordance with section 59-A-6.13.

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- 39 Parking of motor vehicles is permitted in a historic district under Section 59-A-6.22. Parking of heavy
commercial vehicles in connection with a stone or rock quarry is not limited.
- 40 Any farm tenant mobile home established by special exception before May 6, 2002 is a conforming use, and
may be modified, repaired, or reconstructed, in accordance with the special exception standards in effect
before May 6, 2002.
- 41 Any golf driving range established by special exception before May 6, 2002 is a conforming use, and may
be modified, repaired or reconstructed, or enlarged a maximum of 5% of the gross floor area in accordance
with the special exception standards in effect before May 6, 2002.
- 42 Any riding stable established by special exception in the R-90 zone before May 6, 2002 is a conforming use
and may be modified, repaired, reconstructed, or enlarged a maximum of 5% of the total floor area in
accordance with the special exception standards in effect before May 6, 2002. Any riding stable, including
buildings, show rings, paddocks, activities and events established by special exception in the RE-2, RE-2C,
RE-1, R-200, R-150 or RMH-200 zones before April 5, 2004 is a conforming use and may be modified,
reconstructed, or enlarged in accordance with the special exception standards in effect after April 5, 2004
except that any riding stable existing in the RE-2, RE-2C, RE-1, R-200, R-150 or RMH 200 zones before
April 5, 2004 must be in compliance with the nutrient management, water quality, and soil conservation
standards of 59-G-2.49(f) no later than March 2, 2005.
- 43 Any off-street parking of automobiles in a residential zone in connection with a commercial use, established
by special exception before May 6, 2002, is a conforming use and may be modified, repaired or
reconstructed, or enlarged a maximum of 5% of the total parking spaces, in accordance with the special
exception standards in effect before May 6, 2002. The lighting in connection with any off-street parking of
automobiles in a residential zone, established by special exception before May 6, 2002 may be modified in
accordance with 59-E-2.6.
- 44 If designated as being suitable for nonresidential professional offices in an approved and adopted master or
sector plan or classified in the R-90 zone and designated as historic in the Master Plan for Historic
Preservation; or classified in the R-200 zone and abuts a fire station, police station, ambulance squad, or
rescue squad on more than 1 lot line.
- 45 Any legitimate theater established by special exception before May 6, 2002, is a conforming use and may be
modified, repaired or reconstructed, or enlarged a maximum of 5% of the total floor area, in accordance
with the special exception standards in effect before May 6, 2002.
- 46 Any helistop established by special exception in the RE-2 or RE-1 zones before May 6, 2002 is a
conforming use and may be modified, repaired or reconstructed, or enlarged a maximum of 5%, in
accordance with the special exception standards in effect before May 6, 2002.
- 47 Includes the extraction, processing, storage and sale of mineral resources and products (which may include
incidental sales of mineral resources not extracted on the premises), including, as accessory uses, storage
yards, facilities for the maintenance and repair of equipment, loading facilities, crushing, mixing, washing
and screening of stone quarried on-site, stone works for the cutting and polishing of dimensional stone, and
sale of equipment and building supplies associated with the installation of mineral products.
- 48 If recommended as appropriate in the applicable Master Plan, in existence prior to 1958 and having no
more than 4,000 square feet of enclosed structures in the aggregate.
- 49 If recommended as appropriate in the applicable Master Plan, in existence prior to 1958 and having 4,000
square feet or more, but not to exceed 7,500 square feet, in the aggregate of enclosed structures.
- 50 In accordance with Section 59-A-6.17.

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⁵¹ Must not exceed 65 feet in height; however, a special exception for additional height may be granted, by the Board of Appeals if it can be demonstrated that the additional height is the minimum needed to engage in amateur radio communications under a license issued by the Federal Communications Commission. Any amateur radio facility existing before December 26, 2005 that exceeds 65 feet in height is a conforming structure.

⁵² Except for a building accessory to an agricultural use, the footprint of an accessory building on a lot where the main building is a one-family detached residential dwelling must not exceed the greater of 50 percent of the footprint of the main building or 600 square feet. Any accessory building for which a building permit was issued before July 11, 2006 may continue as a conforming building under the standards in effect when the building permit was issued; however, if a building permit that was issued before July 11, 2006 is revoked, but later approved, the accessory building must comply with the standards in effect at the time of the later approval. Any replacement or reconstruction of an accessory building constructed under a building permit issued before July 11, 2006 must comply with the standards in effect when the building is replaced or reconstructed.

⁵³ At least 100 feet from a dwelling, a vendor who is a Certified Agricultural Producer under Chapter 47 regulations is permitted to sell produce on a lot or parcel:

- 1) used for non-residential purposes other than agricultural vending;
- 2) larger than 2 acres in size;
- 3) abutting a roadway with 4 or more lanes; and
- 4) if the structure or vehicle used for sales remains in the same location for less than 24 hours.

⁵⁴ One light commercial vehicle may be parked on any lot or parcel. A tow truck is not permitted to park with a vehicle attached. One recreational vehicle may be parked on a lot or parcel; however, it must not be used for dwelling purposes for more than 3 days in any month. Not more than three heavy commercial vehicles may be parked on any lot or parcel in the RMH-200 zone at any time, provided: (1) the lot or parcel used to park heavy commercial vehicles is at least one acre in size; (2) the heavy commercial vehicles are parked in the rear yard of the lot or parcel; (3) use of the lot or parcel to park heavy commercial vehicles was established before October 23, 2000; and (4) the resident of the lot or parcel is the owner or operator of the vehicles.

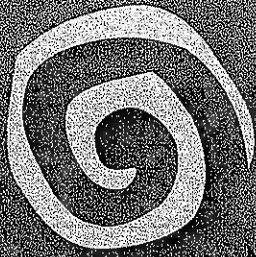
⁵⁵ A commercial kitchen is permitted only as an accessory to a service use that is permitted without a special exception; however, it is prohibited as an accessory use for home occupations, day care facilities, and adult foster care homes. Where a commercial kitchen is allowed, it must:

- (1) occupy less than 5% of the floor area of the building in which it is located;
- (2) not be used as part of an on-site eating and drinking establishment;
- (3) submit a parking plan acceptable to the Director that provides adequate on-site or off-site parking for the users of the commercial kitchen during hours of operation in subsection (4); and
- (4) be used for the preparation of food for public consumption off site only between the hours of 6:00 AM and 9:00 PM weekdays; and 8:00 AM and 9:00 PM weekends.

⁵⁶ See Sec. 59-A-6.20. Attached or detached accessory apartment.

⁵⁷ See Sec. 59-G-2.00.6. Attached or detached accessory apartment.

Editor's note—Section 2 of Ord. No. 12-61 added footnote 34 to section 59-C-1.31(a), which has been designated as footnote 37 since there already existed a footnote 34.



**pure
energy**

REAL ESTATE TEAM

SEPTEMBER 2013

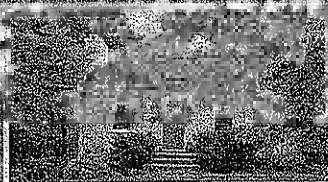
**#1 Real Estate Team
in Silver Spring**

Creative Real Estate Sales



● BUY your house ● SELL your house ● LEASE your house

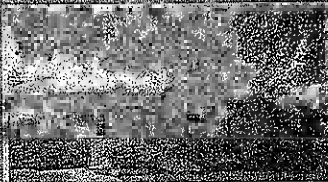
NEW LISTINGS



9310 Caroline Avenue



9007 Eton Road



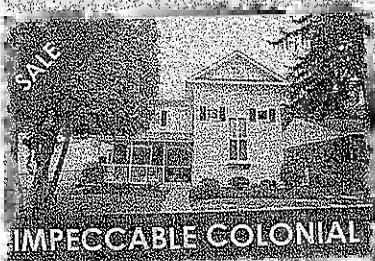
9607 Lorain Avenue



9908 Cherry Tree Lane



CREATIVE REAL ESTATE SALES in progress!!



IMPECCABLE COLONIAL

9502 Caroline Avenue



SPACIOUS SPLIT-LEVEL

1205 Caddington Avenue



CONTRACT IN 16 DAYS!

1003 Robin Road

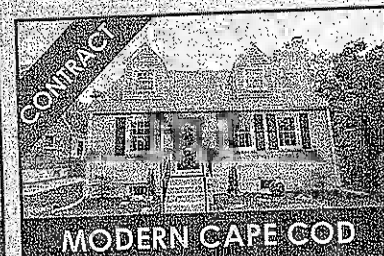


PERFECT FIRST HOME

115 Melbourne Avenue



14825 Carson Drive



MODERN CAPE COD

9511 Seminole Street



**IN 6 DAYS, \$7K OVER LIST
MULTIPLE OFFERS**

1302 Caddington Avenue

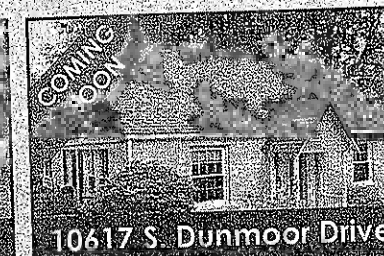


**IN 3 DAYS, \$24.5K OVER
LIST, MULTIPLE OFFERS**

13270 Styer Court



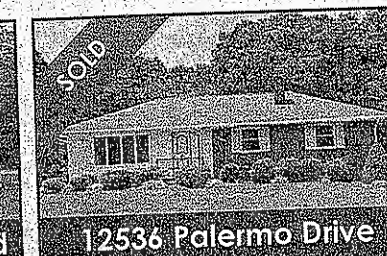
1000 Aster Boulevard



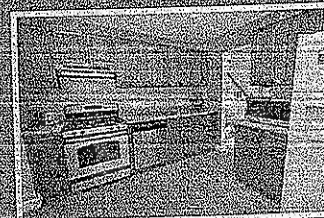
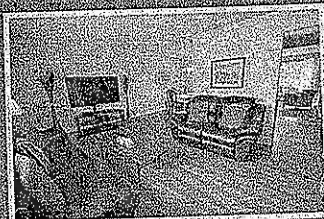
10617 S. Dunmoor Drive



14645 Good Hope Road



12536 Palermo Drive

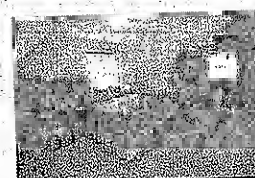
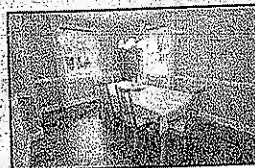
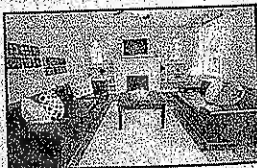


1205 Caddington Ave \$425,000

Nestled on a .17 acre lot in the Forest Knolls community of Silver Spring, this well-maintained and updated 5BR 2BA home features fresh paint, updated light fixtures and stunning hardwoods. The main level features a sunny open living/dining room with main level family room addition and open kitchen with stainless steel appliances and granite counter tops. The upper level features a spacious master and two additional bedrooms and an updated full bath. A fantastic lower level boasts two bedrooms, second full bath, backyard access and a laundry/utility room. A huge, freshly painted deck, large backyard with garden shed and two-car driveway complete this fantastic property!



For more information, contact
Pure Energy
301.608.1454



9511 Seminole St \$479,000

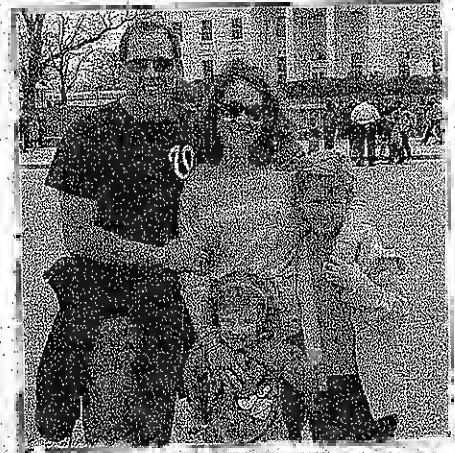
This gorgeous 4BD, 2BD Cape is officially under contract! This well-maintained home received updates prior to sale, including new paint, refinished hardwood floors, fresh landscaping and top-notch staging by the PE design team. **We can do the same for you!** If you need help with preparing your home for sale, contact us to get started!

donna@pureenergyteam.com

www.pureenergyteam.com

MEET JENNY DODD staging & organization master

Introducing Jenny, the newest addition to the Pure Energy Team! Originally from Atlanta, GA, Jenny has been living in the Silver Spring area for the last 20 years. In addition to her past experience as an executive assistant for a global construction company, Jenny has worked for an interior design firm based in Washington, D.C., and for the last 8 years has been a design consultant specializing in organization and staging. Jenny's positive attitude, open personality, and gentle approach contribute to her ability to both relate and assist clients with a variety of needs. She is a lover of music and live concerts, knows most of the thrift stores within a 15-mile radius, and experiments with cooking when she's not running around town with her two children, Nora and Johnny, and her middle-school principal husband, Robby.



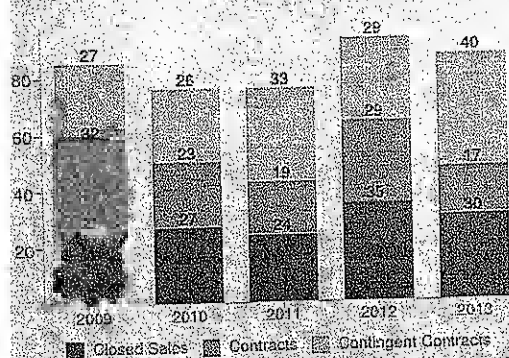
"DONNA WAS FLEXIBLE AND HELPED US UNDERSTAND OUR ALTERNATIVES..."

"Donna and Pure Energy represented us for a purchase of a new home and sale of our former home. Our experience with Donna and her team was outstanding. When searching for a new home Donna was flexible and helped us understand our alternatives. She knows the local market extremely well. The other element Donna brings is a good understanding of process and the norms for negotiations. For our home sale the Pure Energy staging services were fantastic. We put an offer on our new house and put our former house on the market in less than two weeks. This could never have happened if it wasn't for the help and design expertise of the Pure Energy team. Donna reassured us of the appropriate pricing of our house and was able to walk us through some snags with inspection and buyer financing. Overall we highly recommend Donna and Pure Energy for buy or sale transactions."

-Dove & Roshono Cohen

AUGUST SOLD STATISTICS: SILVER SPRING ZIP 20901 (Detached homes)

Address	O.L.P.	Sold Price	Subsidy	DOM	BR	FB	Address	O.L.P.	Sold Price	Subsidy	DOM	BR	FB
Brookmoor Dr	\$534,900	\$544,900	\$0	6	3	2	9100 Sudbury Rd	\$410,000	\$400,000	\$0	38	4	2
Markham St	\$475,000	\$475,000	\$1,200	8	3	2	1017 Loxford Ter	\$375,000	\$396,500	\$11,895	8	3	2
anville Dr	\$475,000	\$475,000	\$14,250	8	3	1	9916 Lorain Ave	\$429,900	\$394,000	\$8,000	70	3	2
Garwood St	\$479,000	\$465,000	\$10,000	124	4	3	9203 Glenville Rd	\$390,000	\$390,000	\$11,700	27	3	2
Illmoor Dr	\$449,900	\$454,900	\$7,200	51	3	1	903 Robin Rd	\$394,500	\$374,000	\$0	66	4	1
Portland Rd	\$440,000	\$453,000	\$13,000	4	4	2	1010 Laredo Rd	\$367,000	\$367,000	\$8,000	81	6	4
Ocala St	\$460,000	\$430,000	\$8,500	45	3	2	10909 Hannes Ct	\$414,900	\$366,500	\$0	200	5	3
Meurlee Ln	\$459,000	\$430,000	\$0	26	3	2	10009 Greenock Rd	\$365,000	\$365,000	\$0	11	3	1
Bradford Rd	\$439,000	\$430,000	\$11,000	6	2	2	101 Southwood Ave	\$389,900	\$360,000	\$0	9	3	1
Caddington Ave	\$420,000	\$427,000	\$0	6	5	2	305 Irwin St	\$349,900	\$358,000	\$0	5	3	2
urnt Mills Ave	\$439,000	\$425,000	\$0	7	4	3	417 Eisner St	\$275,000	\$275,000	\$0	0	3	2
Woodburn Rd	\$420,000	\$420,000	\$0	3	2	1	10212 Colesville Rd	\$299,500	\$270,000	\$8,100	135	2	2
Dennis Ave	\$425,000	\$410,000	\$0	43	5	2							



Statistic	Value	% Change	% Change
Total Sold Dollar Volume	\$11,475,300	-7.84%	-22.75%
Closed Sales	30	-14.29%	-14.29%
Median Sold Price	\$395,250	+8.29%	-9.03%
Average Sold Price	\$382,510	+7.52%	-9.87%
Average Days on Market	41 days	-41.43%	+24.24%
Avg Sold to Orig List Ratio	96.99%	+3.13%	-1.76%

For a free market analysis of your neighborhood, contact us 301.608.1454

Creative Real Estate Sales 301.608.1454

"SHE WENT ABOVE AND BEYOND..."

"Donna is approachable, responsive, clear in all of her communications and expectations, and resourceful. She and her team successfully directed us through a quick and painless staging/listing/selling process. Her advice leading up to our sale was spot-on and it paid off for us with immediate multiple offers. She was equally successful in helping us buy our second home. We had a tight window to work within once our home sold, and she helped us navigate through a competitive seller's market. Within two weeks of selling our home, we had a successful offer on our dream home. She went above and beyond in terms of contacting other agents, inquiring on our behalf, and helping us feel confident in our offer."

-Patrick & Patti Carey

DONNA KERR

pure energy real estate team of
gerlach real estate, inc.

2426 linden lane, silver spring md 20910

PRSR STD
U.S. POSTAGE
PAID
SUBURBAN, MD
PERMIT NO. 6243

*****ECRWSSDDM*****

MY FABULOUS NEIGHBOR
SILVER SPRING, MD 20901

Come visit Donna and Lewis's fall neighborhood family event featuring 8 Exhibits total including the all new Witch's Lair - complete with an 18-ft tall Witch and a whole new assortment of over-sized props that will take your breath away! Step into another world, face your fears and most importantly, bring your friends! Admission is FREE! If you would like to be involved with pumpkin carving, set up, decor, make up costumes or acting, email Donna.

donna@pureenergyteam.com

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

The Haunted Garden is open to the public on the blood spattered days in October. Opening night is Saturday, 10/19/13.

OPENING NIGHT
10/19/13

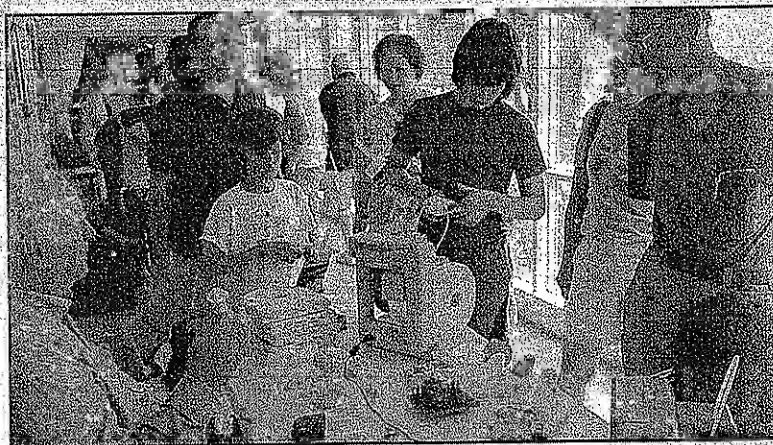
Silver Spring Mini Maker Faire

of all types for a spectacular display of art, science, technology, craft and engineering. Maker Faire is a showcase of invention, creativity and resourcefulness, and a celebration of the Maker movement. It's a place where people show what they are making, and share what they are learning. This "do-it-yourself" fair invites children and adults to participate in Maker projects -- and demonstrations, including making and racing your own lunar Rover with NASA scientists, experiment with 3D printers & vinyl cutters, build a giant marble run, create new toys and wearable art out of recycled materials, screen print your own T-shirt, make your own computer game and create your own hand bound books.

This free, family friendly event will be held on Sunday, September 29, 12-5pm at Veterans Plaza and the Silver Spring Civic Building.

LOCAL EVENT SPOTLIGHT: MAKER FAIRE

GET READY TO MAKE! The KID Museum and Discovery Communications invite you to the DC Metro's first official Maker Faire in Silver Spring. The Mini Maker Faire brings together Makers



For more info, visit www.makerfaresilverspring.com

www.pureenergyteam.com

IN THE DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

MONTGOMERY COUNTY
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850

Plaintiff

v.

Civil Case No. _____

DONNA KERR
9215 Worth Avenue
Silver Spring, Maryland 20901

and

PURE ENERGY REAL ESTATE
c/o Donna Kerr, Resident Agent
2426 Linden Lane
Silver Spring, Maryland 20910

Defendants

ORDER GRANTING TEMPORARY RESTRAINING ORDER

Upon consideration of the Petition for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction, and it appearing that the Plaintiff will suffer immediate, substantial and irreparable harm before a full adversary hearing may be held; it is by this Court on this _____ day of October, 2013, at _____ a.m./p.m.;

ORDERED, that a Temporary Restraining Order be and hereby is issued against the Defendants Donna Kerr and Pure Energy Real Estate requiring them to:

1. Cease and desist advertising the Haunted Garden at 9215 Worth Avenue in Silver Spring, Maryland, in any media whatsoever, except to indicate that the event has been canceled,

2. Immediately send a mailer to the same mailing lists used by Pure Energy to send out the flyers shown as Exhibits B and G attached to the Petition advising that the Haunted Garden is immediately canceled and not open to the public;
3. Immediately revise Pure Energy's website and facebook pages to post that the Haunted Garden and all related activity is immediately canceled and not open to the public;
4. Immediately remove all other reference to the Haunted Garden from all Pure Energy website pages, facebook pages and other Pure Energy social media;
5. Cease and desist any future commercial promotional Pure Energy events at 9215 Worth Avenue in Silver Spring, Maryland; and
6. Cease and desist using Pure Energy employees or volunteers to erect or install exhibits and displays on the property known as 9215 Worth Avenue in Silver Spring, Maryland;

so long as a copy of this Order is served upon the Defendants within _____ days from the date hereof; and it is further

ORDERED, that this Court finds that the following harm will result if this Order were not issued: the neighborhood and community will be subject to unreasonable traffic, parking, noise, and safety impacts if the event continues to be advertised and is held, and that the Plaintiff, Montgomery County, Maryland, will need to divert resources to Defendant Kerr's neighborhood to manage crowds, including but not limited to, police, fire and rescue services, transportation officials, and other inspectors, and that Defendants will continue to erect and install Halloween displays and exhibits that may attract large numbers of people and vehicles to the neighborhood; and it is further

ORDERED, that this Court bases its finding that the harm will be irreparable on the following: the event has caused deleterious impacts on the neighborhood in past years, the event constitutes a zoning violation, the event is expanding from previous years by adding new exhibits, the County will be unable to effectively manage the anticipated crowds if advertising does not cease immediately, and the issuance of civil citations and collection of fines does not constitute an adequate remedy at law; and it is further

ORDERED, that the Defendants may apply for a modification or dissolution of this Order on two (2) days' notice to the Plaintiff, or such shorter notice as the Court may prescribe; and it is further

ORDERED, that this Temporary Restraining Order shall expire 10 days after issuance of the Order unless a full adversary hearing is held prior to the 10th day after issuance; and it is further

ORDERED, that a hearing will be held in this case on the _____ day of _____, 2013, at _____ a.m./p.m., which date is no later than 10 days after issuance; and it is further

ORDERED, that Defendants are advised that they have the right to appear and present evidence at the aforementioned hearing; and it is further

ORDERED, that the requirement to file a bond is hereby waived pursuant to Maryland Rule 15-503(b).

JUDGE